



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

BETH NAGUSKY
ACTING COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection
FROM: Jamie Tansey, BHMSWC
DATE: October 7, 2010
RE: Post to Public Hearing: Minor Revisions to Chapter 425, the *Asbestos Management Regulations*

Statutory and Regulatory References:

38 MRSA Chapter 12-A "Asbestos" authorizes the Department to ensure that those engaged in management and abatement of asbestos-containing materials are properly trained, supervised and directed to protect the public health. Management and abatement include inspection, monitoring, design, removal, training, and analysis. Specifically, Section 1273 prohibits persons from engaging in asbestos abatement activities unless they are licensed or certified and prohibits those activities unless the Department is notified at least 5-days in advance of the activity. Section 1274-A authorizes the Department to adopt and amend rules for licensing and certification. Section 1275 authorizes the Department to develop rules for approval of asbestos training courses. Section 1278 allows the Department to collect licensing and notification fees. Finally, Section 1280 permits the Department to adopt rules for acceptable work practices for those persons engaged in asbestos activities. Pursuant to these applicable sections, the Board adopted Chapter 425, *Asbestos Management Regulations*, in May 2004.

Location/Applicability: Statewide.

Description:

Chapter 425 requires contractors, consultants, trainers, and analytical laboratories to be licensed by the Department, and employees of those companies to be trained and certified by the Department. The rule also requires: Departmental approval of training courses needed for individuals to be certified; notification to the Department of asbestos abatement projects; implementation of specific work practices and final air clearances and visual evaluations to ensure cleanliness of the work area following completion of abatement work.

The Department is proposing revisions which simplify and clarify the rule in areas that have caused some confusion in the regulated community, to promote the use of "risk-based" standards to regulate asbestos more effectively in areas of greatest risk for exposure, and to integrate changes to standard industry practice that have evolved over the past 6 years. Earlier this year, a draft proposed rule was distributed to the regulated community to gain their thoughts and feedback, both verbally and in writing. In addition, staff held two

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meetings to solicit input. The Department has incorporated many of the comments from the regulated community into this final draft of the rule.

Proposed changes included in this draft rule are as follows:

- Additions, revisions and clarifications to certain definitions.
- Clarifications to existing activities designated as “not subject to this rule” due to their limited potential to release asbestos fibers, and the addition of one more activity to the section.
- Updates to notification, licensing and certification fees per statutory changes.
- Reorganization of the “In-House Asbestos Abatement Unit” licensing section of the rule.
- Updates and clarification of sampling and analysis requirements.
- Incorporation of current standard variance procedures into the “Work Practices”, and modifications and clarifications to other work practice requirements.
- Incorporation of procedures for notifying the Department when moving or ending use of an Asbestos Storage Waste Facility.

Environmental Issues:

Buildings in Maine built prior to 1981 may contain asbestos. Asbestos was used in more than 3,500 products for more than 50 years and is common in heating, roofing, flooring, and wall systems. Asbestos has been proven to cause disease in humans and is estimated to result in approximately 25,000 deaths per year in the United States. The most common disease is lung cancer (there are several other diseases as well) and it is normally associated with high dose exposures over time. Asbestos-related disease does not normally appear until 20 to 30 years after exposure.

Department Recommendation:

The Department recommends that the Board post the proposed changes to public comment, and schedule a public hearing at its regular meeting on November 18, 2010, with a comment deadline of November 29, 2010.

Estimated Time of Presentation:

10 minutes